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EXTRAORDINARY

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LOK SABHA

The following Bill was introduced in Lok Sabha on the 29th August, 1961:—

*BILL No. 52 OF 1961

A Bill further to amend the High Court Judges (Conditions of Service) Act, 1954.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1961. Short title.

2. In section 2 of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the principal Act), in subsection (1), after clause (g), the following clause shall be, and shall be deemed always to have been, inserted, namely:— Amendment of section 2.

“(gg) “pension” means a pension of any kind whatsoever payable to or in respect of a Judge, and includes any gratuity or other sum or sums so payable by way of death or retirement benefits;”.

3. After section 17 of the principal Act, the following section shall be, and shall be deemed always to have been, inserted, namely:— Insertion of new section 17A.

“17A. Where any Judge who has elected to receive the pension payable to him under Part II or Part III of the First Family pensions and gratuities.

*The President has, in pursuance of Clauses (1) and (3) of Article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

Schedule dies, whether before or after retirement, in circumstances to which section 17 does not apply, a family pension or gratuity, if any, shall be payable to the person or persons entitled thereto under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that family pension or gratuity." 5

Amendment of section 24. 4. In section 24 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree 15 in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously 20 done under the rule."

STATEMENT OF OBJECTS AND REASONS

Under the provisions of the High Court Judges (Conditions of Service) Act, 1954, as they stand at present, a service Judge who does not elect to receive pension under Part I of the First Schedule to the Act is entitled to the pension admissible to him under the ordinary rules of his service and an additional pension according to the scale laid down in Part II or Part III of the First Schedule, as the case may be.

2. During the last few years, most of the State Governments have liberalised the pension rules applicable to the members of the State Judicial Services or the State Higher Judicial Services so as to provide for payment of other retirement benefits besides pension, for example, family pension and death-cum-retirement gratuity. A question has been raised that the term "pension" as used in the High Court Judges (Conditions of Service) Act, 1954, means only a periodical payment and does not include gratuity or any other retirement benefits. As the intention was that such Judges should get all the retirement benefits admissible to them under the ordinary rules of their service, in addition to the additional pension, it has become necessary to amend the Act suitably to make the position clear. It is also considered necessary to give retrospective effect to the proposed amendments to cover past cases. The Bill seeks to achieve this object.

NEW DELHI;
The 23rd August, 1961.

B. N. DATAR.

FINANCIAL MEMORANDUM

The bill, if enacted and brought into operation, will involve some additional expenditure on account of payment of death-cum-retirement gratuity or family pension in respect of service Judges who elect to receive pension under Part II or Part III of the First Schedule to the High Court Judges (Conditions of Service) Act, 1954 and who may be entitled to such benefits under the ordinary rules of their service if they had not been appointed High Court Judges.

The expenditure on account of payment of family pensions and death-cum-retirement gratuities will be first charged on the Consolidated Fund of India and subsequently recovered from the States concerned. It is not possible to give any accurate estimate of the amount of expenditure involved.

M. N. KAUL,
Secretary.